

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 13192 of 2004

Between:

V. Nehru Reddy, S/o. V.C. Venkata Reddy,

Aged about 42 years, R/o.D.No.5-76-20, Pandaripuram,

4th Line, Guntur, Guntur District.

..... PETITIONER

AND

- 1 The Union of India, Rep. by its Secretary,
Ministry of Road, Transport and Highways,

Central Secretariat, New Delhi.

- 2 The Project Director, National High Way Authority of India,
Near Brindavan Gardens, Ring Road, Guntur, Guntur District -7.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in not adopting the procedure for the purpose of collection of toll on mechanical vehicle for the use of stretch from K.M.354/775 to K.M. 434/150 i.e., between Chilakaluripeta to Vijayawada by dividing it into two parts of 3901 K.M. each as adopted in respect of from lane stretch of N.H.5 from K.M.3.4 to 81.600 i.e., in between Vijayawada and Gundagolanu vide notification No.S.O.144 (C), dated 28-1-2004 as illegal, arbitrary in violation of Article 14 of the Constitution of India.

Counsel for the Petitioner: MR.KARNAMRAMESH

Counsel for the Respondents: MR.S.S.VARMA (ADDL CGSC)

The Court made the following:

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ORDER: (per the Hon'ble Mr.Justice M.H.S.Ansari)

Heard the learned counsel for the petitioner.

2. The challenge in the instant petition is with regard to the procedure adopted in respect of collection of toll tax from the users of the National Highway No.5 (for short 'NH.5'). It is not in dispute that a Notification No.S.O.144 (E) dated 28.01.2004 was issued entrusting collection of toll fee from the road users towards use of the stretch from Vijayawada to Gundugolanu i.e., from K.M.3/4 to K.M.81/600 of NH.5 including Eluru by-pass by the National Highways Authority of India departmentally or by private contractor. It is also not in dispute that there is a stretch between Vijayawada to Gundugolanu i.e., from K.M.3/4 to K.M.42/5 as one stretch and K.M.42/5 to K.M.81/6 is the other stretch.

3. With regard to the stretch of NH.5 from Chilakaluripeta to Vijayawada the toll fee is collected in terms of Notification No.431 (E) dated 10.04.2003.

4. The grievance of the petitioner is that with respect to the stretch from Chilakaluripeta to Vijayawada of NH.5 Governed by Notification dated 10.04.2003 toll fee is prescribed at the rate of Rs.140/-, whereas by the later Notification dated 28.01.2004 the NH.5 is divided in two stretches, each of K.M.39' and rate prescribed for similar vehicle (Truck or Bus) is Rs.65/- per one way trip for each of the two stretches (K.M.3.4 to K.M.42.5 and K.M.42.5 to K.M.81.6) and therefore discriminatory treatment is being made to the users.

According to the learned counsel for the petitioner, there is no justification for not treating the stretch covered by Notification dated 10.04.2003 in the same manner by dividing it into two stretches.

5. It is the case of the petitioner that by virtue of the Notification No.431 (E) dated 10.04.2003, the petitioner is required to pay toll fee of Rs.140/- though he does not use the entire stretch of 80 K.M. in between Chilakaluripeta and Vijayawada, but uses the stretch between Guntur and Vijayawada which runs for 30 Kms.

6. When the matter was moved notice before admission was directed and in pursuance thereof counter affidavit has been filed. Therein the reason for dividing the stretch of NH.5 from Vijayawada to Gundugolanu into two stretches has been justified on the ground that State High Way No.24 is intersecting at K.M.46 (Hanuman Junction). The State High Way at Hanuman Junction leads to Gudivada on one side and Nuzivid on the other side. It is further stated that the profile of NH.5 from Vijayawada to Eluru is in such a way that the vehicles after substantially using the Highway from Vijayawada to Hanuman Junction have alternate routes to Eluru, thereby avoiding toll fee. A tollgate had therefore to be provided at Pottipadu (K.M.31/850 of NH.5). Also the vehicles originating from Hanuman Junction, Nuzivid and Gudivada and proceeding towards Chennai use the highway for 46 Kms. of NH.5 and can avoid the toll fee if there is no toll gate at Pottipadu. Another tollgate has been located at Kalaparru in K.M.53/3 of Vijayawada-Eluru section of NH.5. Thus, to obviate loss of revenue to the Government two numbers of tollgates have been installed. It is in this manner that NH.5 from Vijayawada to Gundugolanu has been divided into two stretches for the purpose of collecting toll fee at two locations to ensure proper revenue collections to the Government.

7. From the averments, in the counter affidavit as above, it is evident that the stretch of NH.5 from Vijayawada to Gundugolanu cannot be compared with the stretch of Chilakaluripet to Vijayawada. In the circumstances, question of discrimination or violation of Article 14 of the Constitution of India, as contended, does not arise. The location

of two tollgates one at Pottipadu and the other at Kallaparru is valid justification for dividing the stretch between Vijaywada to Gundugolanu into two stretches. The reason being to check avoidance of toll fee by the users. The contention that the other users have been denied similar benefits who do not use the total stretch of 80 Kms. between Vijayawada to Gundugolanu is therefore misconceived. The two stretches, as noticed supra, are not comparable for the reasons already noticed. The object of providing two tollgates is for avoidance of toll tax and justifies division of N.H.5 between Vijayawada to Gundugolanu into two stretches. We, therefore, find no ground to entertain the instant writ petition. The same is accordingly dismissed. No costs.

Dated: 07.12.2004

Dsr

ASSISTANT REGISTRAR

To:

1. The Secretary,
Ministry of Road, Transport and Highways,
The Union of India, Central Secretariat,
New Delhi

2. The Project Director,
National High Way Authority of India,
Near Brindavan Gardens, Ring Road,
Guntur, Guntur District-7

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